



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,347	03/27/2001	Bruce H. Prince	52372-00002	1204

30223 7590 04/04/2002

JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
SUITE 2600
CHICAGO, IL 60606

EXAMINER

ALIMENTI, SUSAN C

ART UNIT	PAPER NUMBER
----------	--------------

3644

DATE MAILED: 04/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/818,347

Applicant()

PRINCE, BRUCE H.

Examiner

Susan C. Alimenti

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Pri d for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disp sition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: No page numbers are listed through out the application. Appropriate correction is required.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "10" and "11" have both been used to designate the "rear wall". Furthermore the rear wall is referenced as character "14" in the Specification on page 3, however in the drawings and in other parts of the Specification "14" represents a "side wall". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to because it is unclear where plastic hanger (17) is located on the device. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3644

5. Claims 15-20 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant regards as their invention. Evidence that claims 15-20 fail to correspond in scope with that which applicant regards as the invention can be found in Paper No. 1 filed 03/27/2001. In that paper, applicant has stated in claim 14 that a method of trapping carpenter bees is to be disclosed, and this statement indicates that the invention is different from what is defined in the claims 15-20 because said claims are dependent upon claim 14, and therefore should similarly disclose a method, not the bee trap device.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5 and 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ritchey (USPN 5,493,997).

Ritchey discloses a device that is the same as that which is cited in claims 1-5 and 14-18. In Figures 7 and 8 Ritchey shows a housing comprising a hinged door (62), attached to flat sidewalls (22, 24, 26, 28) enclosing a hollow interior. A hole (30) is located on one sidewall (28) for allowing small animals or insects to enter in from outside. In column 4, lines 52-56 Ritchey describes how the hole diameter can be adjusted to much smaller sizes. Furthermore in column 4, lines 9-12 it is discussed that a multitude of colors and materials could be used in the

Art Unit: 3644

fabrication of said housing. The choice to use plastic or wood, would provide a smooth exterior surface.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6, 8-12, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritchey as applied to claims 1-5 and 14-18 above, and further in view of Spragins et al. (USPN 5,448,852).

Ritchey discloses a housing that is very similar to that which is disclosed in claims 1-6, 8-12, and 14-19 except he does not utilize a frame that is integrally attached with molded hinges. In column 4 lines 23-25, Ritchey states that the walls of the housing can be integrally formed with each other, but he does not go into any further detail. Spragins et al. (hereafter Spragins) teaches in Figure 1 the use of an integrally molded plastic hinge (34), and a means for latching or securing the folded element to the main body. It would have been obvious to one, in the art at the time the invention was made, to modify Ritchey's housing by implementing Spragins' hinge on all respective connecting walls in order to accommodate packaging restrictions.

10. Claims 7, 13, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritchey as applied to claims 1-5 and 14-18 above, and further in view of Feigin et al. (USPN 3,803,753).

Art Unit: 3644

Ritchey, as modified, discloses a housing that includes all that is described in claims 1-5, 7, 13-18 and 20 except the precise diameter of the hole is not specified. Feigin et al. discloses a bee trapping system that teaches the use of a hole (6) that would be of appropriate size for the application. In column 6, lines 5 and 6, Feigin et al. claims the orifice to be approximately 0.5 inches in diameter. It would have been obvious to one in the art, at the time the invention was made, to use a diameter near to or exactly 0.5 inches for the bee entrance holes in order to appropriately accommodate the insect size.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with regard to trapping or housing devices:

U.S. Patent No. 3,872,619 to McIlwain

U.S. Patent No. 5,305,546 to Edwards

U.S. Patent No. 5,339,563 to Job

U.S. Patent No. 6,170,437 to Jones

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is (703)306-0360.

The examiner can normally be reached on Monday-Thursday, 7:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached on 703-306-4159. The fax phone numbers for the

Art Unit: 3644

organization where this application or proceeding is assigned are 703-306-4196 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

SCA
March 26, 2002

Charles T. Jordan
CHARLES T. JORDAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600